

**ZB# 96-26**

**John Devitt /  
Royal Pools & Spas**

**9-1-36**

Prelim.

May 13, 1996.

Need copies of:

- ① ~~Deck~~ ~~hasht~~
- ② ~~File~~ ~~Report~~
- ③ Fees ① 150.00 ② 500.00
- ④ Protocol <sup>notice to</sup> <sup>enter</sup> <sup>9/96</sup>

Proxy - ~~4~~ ~~hasht~~  
Notice to Paper - 4/96. Hold up

Public Hearing:

~~June 24th, 1996~~

~~September 7, 1996.~~

Oct. 28, 1996.

Approved 5-0

9-1-36.

Refund \$367.00

Formal Decision done

#96-26 - Devitt, John / Royal Pools & Spas  
(9-1-36) Facade sign

TOWN OF NEW WINDSOR  
555 Union Avenue  
New Windsor, NY 12553

# General Receipt

15970

Received from

Rayne Pops & Spas, Inc. OCT 29 1996 \$ 150.00

One Hundred Fifty 00 DOLLARS

For

ZBA Application Fee # 96-2600

DISTRIBUTION:

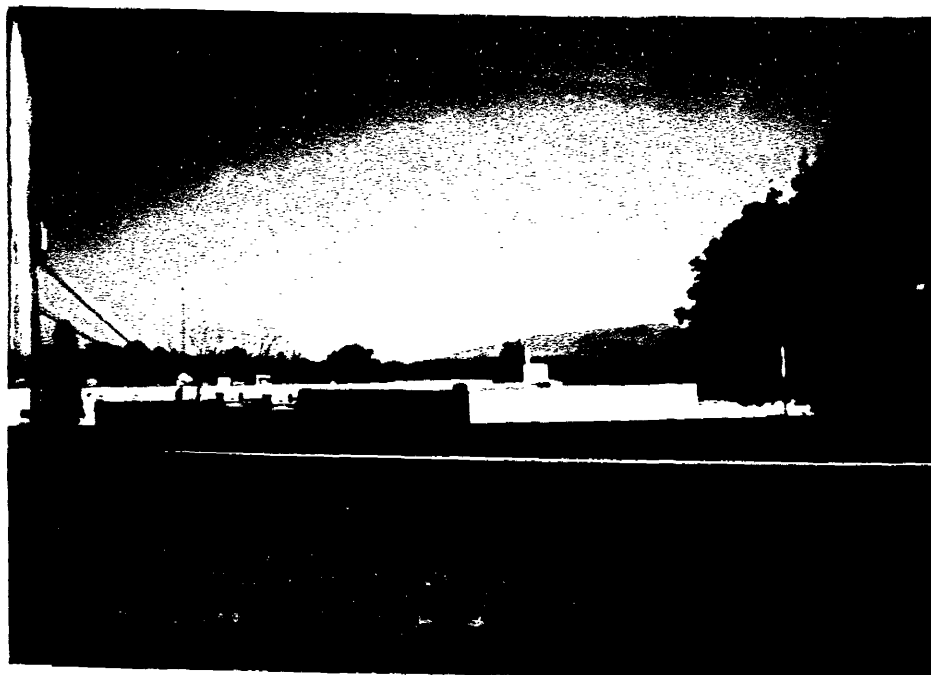
FUND	CODE	AMOUNT
<u>CP 26479</u>		<u>150.00</u>

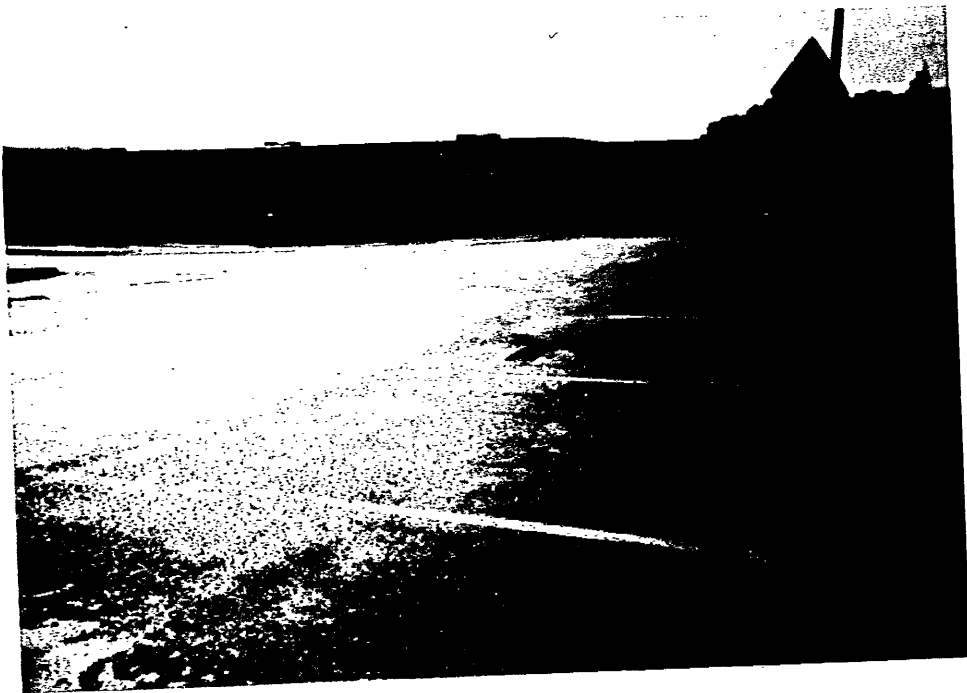
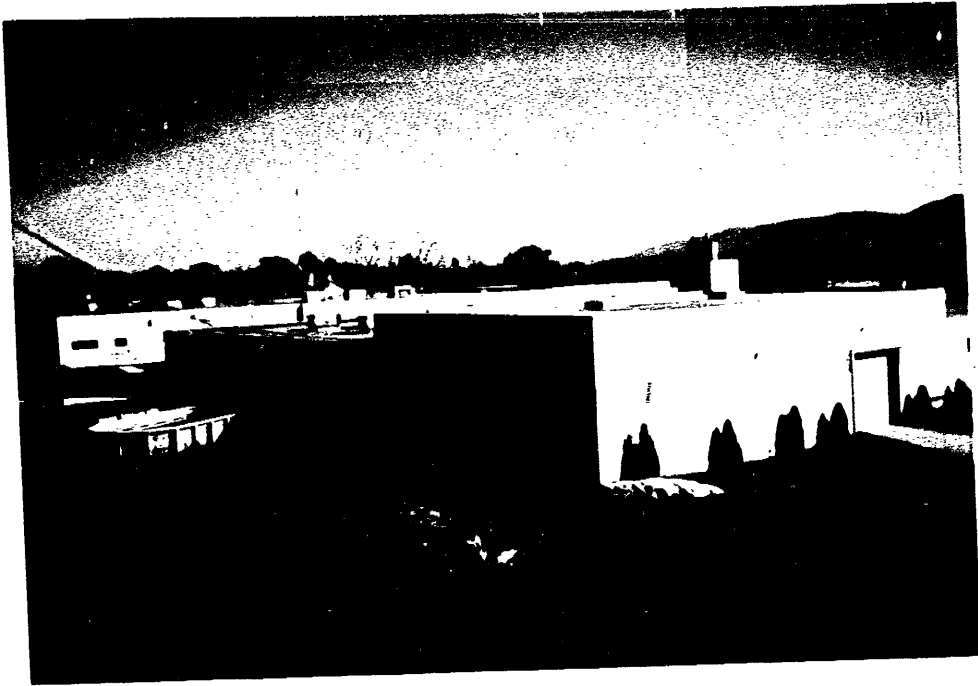
By

Dorothy Hansen  
Town Clerk

TITLE

WILLIAMSON LAW BOOK CO., VICTOR, NY 14564





11 10 11  
X - 11  
(9-1-36) facade

APPLICATION FEE (DUE AT TIME OF FILING OF APPLICATION)

APPLICANT: DeWitt / Legal Tools

FILE # 96-26

RESIDENTIAL: \$ 50.00  
INTERPRETATION: \$150.00

COMMERCIAL: \$150.00

AREA ☒ Sign

USE ☐

APPLICATION FOR VARIANCE FEE . . . . . \$ 150.00

\* \* \* \* \*

ESCROW DEPOSIT FOR CONSULTANT FEES . . . . . \$ 500.00

DISBURSEMENTS -

STENOGRAPHER CHARGES: \$4.50 PER PAGE

PRELIMINARY MEETING - PER PAGE 5/13/96 - 5 pages \$ 22.50  
2ND PRELIM. MEETING - PER PAGE 10/28/96 - 9 pages \$ 40.50  
3RD PRELIM. MEETING - PER PAGE . . . . . \$ \_\_\_\_\_  
PUBLIC HEARING - PER PAGE . . . . . \$ \_\_\_\_\_  
PUBLIC HEARING (CONT'D) PER PAGE . . . . . \$ \_\_\_\_\_  
TOTAL . . . . . \$ 63.00

ATTORNEY'S FEES: \$35.00 PER MEETING

PRELIM. MEETING: 5/13/96 \$ 35.00  
2ND PRELIM. 10/28/96 \$ 35.00  
3RD PRELIM. . . . . \$ \_\_\_\_\_  
PUBLIC HEARING . . . . . \$ \_\_\_\_\_  
PUBLIC HEARING . . . . . \$ \_\_\_\_\_  
TOTAL . . . . . \$ 70.00

MISC. CHARGES:

\_\_\_\_\_ \$ 133.00  
TOTAL . . . . . \$ \_\_\_\_\_

LESS ESCROW DEPOSIT . . . \$ 500.00  
(ADDL. CHARGES DUE) . . . \$ \_\_\_\_\_  
REFUND DUE TO APPLICANT . \$ 367.00

(ZBA DISK#7-012192.FEE)

Refund.

pd.  
10/28/96 ck #  
26429

pd. ck #  
26480  
10/24/96

Date ..... 11/5 ..... 1976

# TOWN OF NEW WINDSOR

**TOWN HALL, 555 UNION AVENUE  
NEW WINDSOR, NEW YORK 12553**

TO Royal Loals & Spas. Inc. DR.  
173 Windsor Highway  
New Windsor, N.Y. 12553

Charge : ZBA

DATE	CLAIMED	ALLOWED
11/5/86	Refund of Escrow #96-26	\$ 367.00
<p>Approved: Patricia A. Bankard 2BA</p>		

26479

DATE \_\_\_\_\_

10/28/96

50-423/219

**PAY TO THE ORDER OF**

Town of New Windsor

\$ 150<sup>00</sup>/<sub>100</sub>

one hundred fifty and

DOLLARS   


**Key Bank of New York  
Doleen Avenue Extension  
Middletown, NY 10940  
Middletown Office**

304

Mary M. DeLuz

75A #96-26.

026479 021906934 034 05 567 1



26480

DATE \_\_\_\_\_

10/28/96

50-693/219

**PAY TO THE ORDER OF**

Box of New Windsor

\$ 500<sup>00</sup>/<sub>100</sub>

Five hundred and <sup>00</sup>/<sub>100</sub>

DOLLARS  

**Key Bank of New York  
Dolson Avenue Extension  
Middletown, NY 10940  
Middletown Office**

303

Mary M. DeRuy

26A #96-26-  
10021

026480 021906934 034 05 567 1

-----X  
In the Matter of the Application of

JOHN DEVITT/ROYAL POOLS AND SPAS, INC.

MEMORANDUM OF  
DECISION GRANTING  
AREA VARIANCE  
FOR SIGN

#96-26.  
-----X

WHEREAS, JOHN DEVITT, 73 Windsor Highway, New Windsor, N. Y., owner, and ROYAL POOLS AND SPAS, INC., P. O. Box 363, New Hampton, N. Y. 10958, lessee, have made an application before the Zoning Board of Appeals for 9.5 ft. X 15 ft. variance for a facade sign to be located at 73 Windsor Highway, in a C zone; and

WHEREAS, a public hearing was held on the 28th day of October, 1996, before the Zoning Board of Appeals at the Town Hall, New Windsor, New York; and

WHEREAS, the Applicant, Royal Pools, was represented by Matt Boyle; and

WHEREAS, there were no spectators appearing at the public hearing; and

WHEREAS, no one spoke in favor of or in opposition to this application; and

WHEREAS, a decision was made by the Zoning Board of Appeals on the date of the public hearing granting the application; and

WHEREAS, the Zoning Board of Appeals of the Town of New Windsor sets forth the following findings in this matter here memorialized in furtherance to its previously made decisions in this matter:

1. The notice of public hearing was duly sent to residents and businesses as prescribed by law and published in The Sentinel, also as required by law.

2. The evidence presented by the applicant showed that:

(a) The subject premises is a commercial property located in a zone and neighborhood of commercial properties.

(b) This property is so situated that it is below the level of the adjacent roadway and cannot easily be seen from that roadway.

(c) Applicant's proposal is to place a sign on the top of the existing building so that it can be seen from motorists traveling on the adjacent roadway.

(d) The sign proposed by the Applicant is designed to be in proportion to the building. The sign is designed to have exterior lighting but will not be blinking nor will it have any internal lighting.



(e) The location of the building without signage calling attention to it has resulted in considerable loss of business.

(f) The proposed sign will not project above the building although it will be at the top of the face of the building facing the City of Newburgh.

(g) The Applicant promised the Board that if the requested variance were granted, he would remove the existing sign.

WHEREAS, the Zoning Board of Appeals of the Town of New Windsor makes the following conclusions of law here memorialized in furtherance of its previously made decision in this matter:

(a) The requested variance will not produce an undesirable change in the character of the neighborhood or create a detriment to nearby properties.

(b) There is no other feasible method available to Applicant which can produce the benefits sought.

(c) The variance requested is substantial but should be granted for the reasons stated above.

(d) The requested variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or zoning district.

(e) The difficulty the applicant faces in conforming to the bulk regulations is self-created in that the construction is proposed, but should nevertheless be granted.

(f) The benefit to the applicant, if the requested variance is granted, outweigh the detriment to the health, safety and welfare of the neighborhood or community.

(g) The requested variance is appropriate and is the minimum variance necessary and adequate to allow the applicant relief from the requirements of the Zoning Local Law and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

(h) The interests of justice will be served by allowing the granting of the requested variance.

NOW, THEREFORE, BE IT

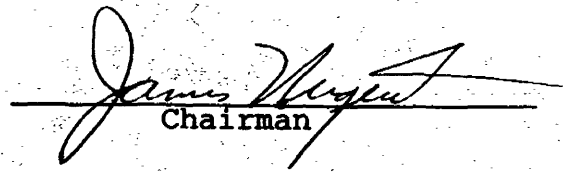
RESOLVED, that the Zoning Board of Appeals of the Town of New Windsor GRANT a request for a 9.5 ft. X 15 ft. variance for a facade sign at 73 Windsor Highway for Royal Pools and Spas, Inc., in a C zone, as sought by the applicant in accordance with plans filed with the Building Inspector and presented at the public hearing.

BE IT FURTHER,

RESOLVED, that the Secretary of the Zoning Board of Appeals

of the Town of New Windsor transmit a copy of this decision to the Town Clerk, Town Planning Board and applicant.

Dated: January 08, 1997.

  
Chairman

Date 11/4/96, 19.....

# TOWN OF NEW WINDSOR

TOWN HALL, 555 UNION AVENUE  
NEW WINDSOR, NEW YORK 12553

TO Frances Roth 147 Sycamore Dr DR.

New Windsor Ny 12553

DATE			CLAIMED	ALLOWED
12/4/96	Zoning Board Mtg		75.00	
	Misc - 2			
	Nutiforo - 5			
	Andrews - 4			
	<del>Bay at Mats</del> 40.50.			
	Cottica - 8			
	Panella - 3			
	<u>31.00</u>		139.50	
			214.50	

PUBLIC HEARING:

~~CONFIDENTIAL - BOYLE AND SPAN, INC.~~

Mr. Matt Boyle appeared before the board for this proposal.

MR. NUGENT: Request for 9.5 x 15 ft. variance for facade sign located at 73 Windsor Highway in a C zone.

MS. BARNHART: For the record, on October 11, 1996, I personally mailed 18 addressed envelopes with the notice inside, the notice to the paper and here's my affidavit of mailing.

MR. REIS: Any responses?

MS. BARNHART: No.

MR. BOYLE: I just heard from the man across the street, he just wanted to talk to me about the size of the sign and where it was going to go and had a good discussion with him and I urged him to stop by the meeting if he had any problems, I don't see him here so I guess everything went fine with our meeting. I submitted to scale a rendering of the actual building and the proposed sign, two different angles, I think the first one is the best one to look at, I just wanted to kind of give you an idea of the size of the building and what I am dealing with and as you look at the pictures here, there's at least one or two pictures that gives it, it's proximity to the road, I'm at the base of a slope which if you stood at the base of the slope and you looked up, it's about a 23 foot increase over ten feet, it's very difficult for any of my customers to actually see that I am there so my hope is to accomplish a little awareness with my existing customers but more importantly, my potential customers and hopefully this will help me to grow my business.

MR. NUGENT: This is going on the south side of the building?

MR. BOYLE: This is going on the west side, yeah, it's

facing--

MR. TORLEY: Facing 32?

MR. BOYLE: Facing 32.

MR. TORLEY: Do you have a freestanding sign as well?

MR. KANE: It's going on this portion here, right?

MR. BOYLE: Yes.

MR. KANE: The sign you have there will that remain?

MR. BOYLE: I would like to take that sign down, actually.

MR. KANE: Would that be considered two signs on there if he keeps this over here or is that two separate buildings?

MR. BABCOCK: I'm not, I'm really not, if he says he is going to take it down--

MR. BOYLE: Well, I wanted to explore the possibilities with it, my most important option of course is this sign that--

MR. BABCOCK: It's another sign.

MR. LANGANKE: How did you determine that this is the size that you need?

MR. BOYLE: It was really the sign company who, you know, looked at our building and, you know, played around with the different sketches they made with us, we kind of said this looks like a pretty good size.

MR. LANGANKE: They are experts in the field and this is what they suggested to you for good return on your money?

MR. BOYLE: Exactly.

MR. TORLEY: You also have a freestanding sign?

MR. BOYLE: Yes, I do, I have a sign which is shared right now. To this point, I have really just tried everything, you know, I have got people coming down the road who have called me on the phone and, you know, I have struck a deal with them on the phone so to speak for a pool, and they have gone right by the shop and I have competition down the road.

MS. BARNHART: Happened to me.

MR. BOYLE: Less than a mile away and they have ended up in their shop, then they get home and they give me a call and let me know that they tried to be in touch or, you know, to get down to our shop but just couldn't find it and that has been the consensus since I have moved in there.

MR. LANGANKE: Is this going to be a neon sign or lit sign?

MR. BOYLE: No, it won't be a lit sign, it will have some nice lighting coming down on it, accent lighting for the evening time, but it's not going to being any kind of--

MR. LANGANKE: Blinking?

MR. KANE: No internal.

MR. BOYLE: No internal at all.

MR. LANGANKE: No big blinking neon light?

MR. BOYLE: No.

MR. REIS: How long have you been in this location?

MR. BOYLE: We're going on our fourth season right now, fifth season in New Windsor. We grew out of our first shop into this shop and we're pretty content in this shop, hopefully.

MR. TORLEY: You feel you need a sign of this size to be visible driving on 32 at the speeds they travel by?

MR. BOYLE: Yes, I do.

MR. TORLEY: And the slope of the ground puts you so far down low you have to have this?

MR. BOYLE: Yes, I find most people are doing 50, 55 miles an hour on there on average and it's--

MR. LANGANKE: How many people work in your shop?

MR. BOYLE: It's kind of a seasonal thing. In the summer time, I have as many as 7, 8 people there working. I have crews but most of our crews are installation and service crews, they are out of our main location in Middletown. But through the different studies, I have done, I really feel that I can match the business that is being done over in Middletown and I kind of look at it as almost a family here where you know I need you and I think that I can help the New Windsor community also with the amount of business I bring into the community from the adjoining communities and I'm just hoping that, you know, this sign will really help me to grow a little bit and fill my potential, I hope.

MR. REIS: Are you the only tenant in this building?

MR. BOYLE: No, actually C.J. Building Supply is on the pictures, from the one angle, you'd be able to see they take the back side of the building, it's a little bit too big, we threw around that idea for us to take the whole building over but it, we're as and up start company, we wanted to take it one step at a time here.

MR. REIS: How many feet do you occupy yourself?

MR. BOYLE: Total square footage is 50 by like 120 showroom area and we have a warehouse space and a little office area, it's a pretty good size building.

MR. TORLEY: Given the geometry of the area and stuff and speeds he really needs a sign pretty much this size to be visible.

MR. KANE: I agree with the need for the sign, but I see two problems with your proposal and what I would suggest is maybe postponing this hearing at this point, your sign projects above the building which it can't either and that is not part of your, what you're requesting in your variance.

MRS. ANDREWS: It's not like a necessary thing that we do that.

MR. KANE: We can only go by what you present to us and that is what you're presenting, okay. The second part is you have the second sign up, you're only allowed one so you have to, so you have to make a decision that you are only going to have one sign or request for the second sign cause we can only do one thing.

MRS. ANDREWS: So but we could request for a second.

MR. KANE: We only want you here once.

MR. BOYLE: I also have another rendering I thought I'd throw by you, this one right here, all this, this little sort of roof kind of extends over the roof. It doesn't need to be, it can be pushed down a little bit but I just wanted to pass it by and see your feelings.

MR. TORLEY: You're correct, the code does not permit the sign to protrude above the building.

MR. BABCOCK: That is correct.

MR. TORLEY: You can obviate that problem if you drop it down three feet, as long as it doesn't stick over the edge of the building.

MR. KANE: If you didn't want to postpone and re-think your position, you would need to make a decision with us tonight that you were going to go with just the one sign.

MR. NUGENT: He offered to take the other one down.

MR. KANE: He wasn't sure. He'd like to explore that.



MR. TORLEY: If you'd agree, if you are granted this variance for this sign as part of the variance, it would be the statement that you'd remove the other sign?

MR. BOYLE: Yes.

MR. LANGANKE: Maybe, wait a minute, maybe he will want to apply, maybe he will want to change it and apply for a variance on the other sign also.

MR. KANE: That is what I am pointing out that he needs to check both things.

MR. LANGANKE: If you need that, you need the other sign, if you need both signs, make your case and, you know, you'll just have to change your variance to request two signs.

MR. BABCOCK: Problem is everything is all done now, Herb, this is the public hearing, he'd have to restart it all over from the beginning.

MR. BOYLE: I think I'll take the letters down.

MR. KANE: That is why I bring it up, to give him the option because we need to cover all the bases here and I don't want it to influence anybody's decision with you being undecided or the possibility of you coming back at a later date and saying I want to now keep this sign, it's, you know, that is not good so I want to point that out.

MR. BABCOCK: If you do decide to keep the other sign, you're welcome to, you can come back and go through this procedure for that and take your chances.

MR. KRIEGER: He didn't mean to foreclose your doing that, you have to make a conscious choice and understand that that is what that will mean.

MR. BOYLE: I understand.

MR. LANGANKE: It will delay you because you'll have to re-mail the notices.

MR. BABCOCK: Right.

MR. BOYLE: No, I understand that and I think my choice clearly would be to take down the existing letters and go for approval on this particular sign and drop the sign down three feet.

MR. KANE: As long as we all understand.

MR. REIS: If you put the sign down three feet, you're going to diminish the visibility because your--

MR. TORLEY: If you look at the building from the road dropping down to match the roof of the building.

MR. BOYLE: Three feet won't make how much a difference.

MR. REIS: You're comfortable with that?

MR. NUCIFORE: Yes, I'm comfortable with that.

MR. REIS: Is the existing sign on the same facade as what you intend to do here?

MR. BOYLE: No.

MR. KANE: No, existing sign is above these doors over here in the letters and it's right there, if you are coming this way, you can kind of see it, if you are coming towards Newburgh, forget it, you can't see anything, you're passed it before you see it.

MR. BOYLE: We thought about doing the letters up here but it didn't look good from the road, it looked pretty gaudy.

MR. REIS: To have it on this wall would not serve a purpose.

MR. KANE: You have Route 32 coming this way, you attract nobody heading into the City of Newburgh with that signage there.

MR. REIS: No, you would see it going south.

MR. KANE: Right, but you don't get both ways, if you have it here, you get traffic coming and going.

MR. BOYLE: Usually the people coming south on 32 I find don't have that much difficulty, it's the ones coming north.

MR. REIS: Looking out for your interest.

MR. BOYLE: Thank you, appreciate it.

MR. NUGENT: Anymore questions by the board? I'll open it up to the public, if you'd like to make a comment. Hearing none, I'll close the public hearing and open it back up to the board.

MR. KRIEGER: The character of the neighborhood there would you say is largely commercial?

MR. BOYLE: Yes, I estimate in that particular neighborhood for it to be about 80 percent commercial.

MR. KRIEGER: How does this proposed sign compare in size with other signs for other businesses in the area?

*Boyle*  
MR. ~~KRIEGER~~: Well, actually, I have taken a few pictures of surrounding signs and I have got some approximate numbers as far as physical size of these signs and I can read through them or pass them through, from the town of New Windsor it's, I have a sign for Squire Village 12 x 15, Bank of New York 10 x 25, Friendly's in the area of 20 x 8 or 10, it's tough cause they are so high up, McDonald's in the area of 12 x 15, China Buffet 4 x 18, U-Haul, 4 x 18, most of these signs are freestanding too, they are right out in the middle of the road.

MR. KANE: In your immediate neighborhood area, that sign fits in kind of with your immediate neighborhood?

MR. BOYLE: Yes.

MR. TORLEY: All the other Devitt signs.

October 28, 1996

19

MR. NUGENT: Any further questions?

MR. KRIEGER: No.

MR. NUGENT: No future questions. I'll entertain a motion.

MR. LANGANKE: I make a motion that we approve the Devitt Royal Pools and Spas Inc. request for variance.

MR. REIS: Second it.

ROLL CALL

MR. REIS	AYE
MR. KANE	AYE
MR. LANGANKE	AYE
MR. TORLEY	AYE
MR. NUGENT	AYE

TOWN OF NEW WINDSOR  
ZONING BOARD OF APPEALS  
APPLICATION FOR VARIANCE

# 96-26

Date: 10/02/96

I. Applicant Information:

- (a) JOHN DEVITT, 73 Windsor Highway, New Windsor, N. Y. 12553 x  
(Name, address and phone of Applicant) (Owner)
- (b) ROYAL POOLS AND SPAS, INC., Rt. 17M, Box 363, New Hampton, N. Y. 10958  
(Name, address and phone of purchaser or lessee)
- (c) -  
(Name, address and phone of attorney)
- (d) -  
(Name, address and phone of contractor/engineer/architect)

II. Application type:

- ☐ Use Variance ☒ Sign Variance
- ☐ Area Variance ☐ Interpretation

III. Property Information:

- (a) C 73 Windsor Highway, New Windsor, NY 9-1-36 2.1 acres +  
(Zone) (Address) (S B L) (Lot size)
- (b) What other zones lie within 500 ft.? None
- (c) Is a pending sale or lease subject to ZBA approval of this application? No
- (d) When was property purchased by present owner? 5/1/89
- (e) Has property been subdivided previously? Yes
- (f) Has property been subject of variance previously? No  
If so, when? \_\_\_\_\_
- (g) Has an Order to Remedy Violation been issued against the property by the Building/Zoning Inspector? No
- (h) Is there any outside storage at the property now or is any proposed? Describe in detail: n/a
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

IV. Use Variance. N/A

- (a) Use Variance requested from New Windsor Zoning Local Law, Section \_\_\_\_\_, Table of \_\_\_\_\_ Regs., Col. \_\_\_\_\_, to allow:  
(Describe proposal) \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

(b) The legal standard for a "use" variance is unnecessary hardship. Describe why you feel unnecessary hardship will result unless the use variance is granted. Also set forth any efforts you have made to alleviate the hardship other than this application.

---

---

---

---

(c) Applicant must fill out and file a Short Environmental Assessment Form (SEQR) with this application.

(d) The property in question is located in or within 500 ft. of a County Agricultural District: Yes \_\_\_\_\_ No x.

If the answer is Yes, an agricultural data statement must be submitted along with the application as well as the names of all property owners within the Agricultural District referred to. You may request this list from the Assessor's Office.

V. Area variance: n/a

(a) Area variance requested from New Windsor Zoning Local Law, Section \_\_\_\_\_, Table of \_\_\_\_\_ Regs., Col. \_\_\_\_\_.

<u>Requirements</u>	<u>Proposed or Available</u>	<u>Variance Request</u>
Min. Lot Area _____	_____	_____
Min. Lot Width _____	_____	_____
Reqd. Front Yd. _____	_____	_____
Reqd. Side Yd. _____	_____	_____
Reqd. Rear Yd. _____	_____	_____
Reqd. Street Frontage* _____	_____	_____
Max. Bldg. Hgt. _____	_____	_____
Min. Floor Area* _____	_____	_____
Dev. Coverage* _____ %	_____ %	_____ %
Floor Area Ratio** _____	_____	_____
Parking Area _____	_____	_____

\* Residential Districts only

\*\* No-residential districts only

(b) In making its determination, the ZBA shall take into consideration, among other aspects, the benefit to the applicant if the variance is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. Also, whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance; (2) whether the benefit sought by the applicant can be achieved by some other method feasible for the applicant to pursue other than an area variance; (3)

---

---

---

---

## VI. Sign Variance:

(b) [1]

Total sign area: 326 s.f. approx.

VII. Interpretation. n/a

(a) Interpretation requested of New Windsor Zoning Local Law,  
Section \_\_\_\_\_, Table of \_\_\_\_\_ Regs.,  
Col. \_\_\_\_\_.

[illegible]

VIII. Additional comments:

(a) Describe any conditions or safeguards you offer to ensure that the quality of the zone and neighboring zones is maintained or

upgraded and that the intent and spirit of the New Windsor Zoning is fostered. (Trees, landscaping, curbs, lighting, paving, fencing, screening, sign limitations, utilities, drainage.)

The Royal Pools & Spas logo which is proposed for the building facade is unobtrusive and will blend in well with the other commercial buildings in the area.

IX. Attachments required:

- x Copy of referral from Bldg./Zoning Insp. or Planning Bd.
- x Copy of tax map showing adjacent properties.
- Copy of contract of sale, lease or franchise agreement.✓
- Copy of deed and title policy.
- n/a Copy(ies) of site plan or survey showing the size and location of the lot, the location of all buildings, facilities, utilities, access drives, parking areas, trees, landscaping, fencing, screening, signs, curbs, paving and streets within 200 ft. of the lot in question.
- x Copy(ies) of sign(s) with dimensions and location.
- x Two (2) checks, one in the amount of \$150.00 and the second check in the amount of \$500.00, each payable to the TOWN OF NEW WINDSOR.
- x Photographs of existing premises from several angles.

X. Affidavit.

Date: October 2, 1996

STATE OF NEW YORK)  
                                  ) SS.:  
COUNTY OF ORANGE )

The undersigned applicant, being duly sworn, deposes and states that the information, statements and representations contained in this application are true and accurate to the best of his/her knowledge or to the best of his/or information and belief. The applicant further understands and agrees that the Zoning Board of Appeals may take action to rescind any variance granted if the conditions or situation presented herein are materially changed.

\_\_\_\_\_  
(Applicant)

(See attached Proxy Affidavit)

Sworn to before me this

\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

XI. ZBA Action:

(a) Public Hearing date: \_\_\_\_\_.



(b) Variance: Granted (\_\_\_\_) Denied (\_\_\_\_)

(c) Restrictions or conditions: \_\_\_\_\_

---

---

**NOTE: A FORMAL DECISION WILL FOLLOW UPON RECEIPT OF THE PUBLIC HEARING MINUTES WHICH WILL BE ADOPTED BY RESOLUTION OF ZONING BOARD OF APPEALS AT A LATER DATE.**

**(ZBA DISK#7-080991.AP)**

PROXY AFFIDAVIT

SUBMISSION OF APPLICATION FOR VARIANCE # 96-26

ZONING BOARD OF APPEALS

TOWN OF NEW WINDSOR

STATE OF NEW YORK)

) SS.:

COUNTY OF ORANGE )

JOHN DEWITT, deposes and says:  
I am the OWNER of a certain parcel of land within the TOWN OF NEW  
WINDSOR designated as tax map SECTION 9 BLOCK 1  
LOT 36. I HEREBY AUTHORIZE MATT BOYLE  
of ROYAL POOLS (company name) to make an  
application before the ZONING BOARD OF APPEALS as described in  
the within application.

Dated: May, 1996.

  
(Signature of Owner)

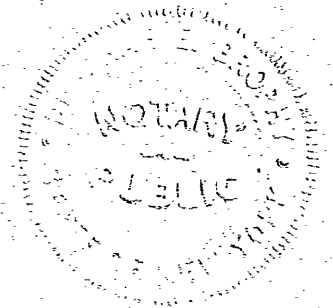
Sworn to before me this

14<sup>th</sup> day of October, 1996.

  
Notary Public

DEBORAH E. BROPHY  
Notary Public, State of New York  
No. 01BR5034838  
Qualified in Orange County  
Commission Expires Oct. 17, 1996

(ZBA DISK#1-060895.PXY)



PUBLIC NOTICE OF HEARING BEFORE

ZONING BOARD OF APPEALS

TOWN OF NEW WINDSOR

PLEASE TAKE NOTICE that the Zoning Board of Appeals of the TOWN OF NEW WINDSOR, New York, will hold a Public Hearing pursuant to Section 48-34A of the Zoning Local Law on the following Proposition:

Appeal No. 26

Request of JOHN DEVITT and ROYAL POOLS & SPAS, INC.

for a VARIANCE of the Zoning Local Law to permit:

facade sign on building with more than the allowable sign area;

being a VARIANCE of Section 48-18H(b) [1] of the Supplementary  
Sign Regulations

for property situated as follows:

73 Windsor Highway, New Windsor, New York 12553

known as tax lot Section 9 Block 1 Lot 36

SAID HEARING will take place on the 28<sup>th</sup> day of October,  
19 96, at New Windsor Town Hall, 555 Union Avenue, New Windsor,  
New York, beginning at 7:30 o'clock P. M.

JAMES NUGENT  
Chairman

*Prelim.*  
*May 13, 1996*  
*7:30 p.m.*  
*# 96-26*

OFFICE OF THE BUILDING INSPECTOR - TOWN OF NEW WINDSOR  
ORANGE COUNTY, NY

NOTICE OF DISAPPROVAL OF BUILDING PERMIT APPLICATION

DATE: APRIL 15, 1996

APPLICANT: JACK DEVITT (owner)  
73 WINDSOR HIGHWAY  
NEW WINDSOR, N.Y. 12553

*Matt Boyle.*

PLEASE TAKE NOTICE THAT YOUR APPLICATION DATE: APRIL 15, 1996  
FOR (BUILDING PERMIT): 12FT. X 25FT. FACADE SIGN  
LOCATED AT: 73 WINDSOR HIGHWAY

ZONE C

DESCRIPTION OF EXISTING SITE: SEC: 9, BLOCK: 1, LOT: 36  
EXISTING POOL AND SPA RETAIL

IS DISAPPROVED ON THE FOLLOWING GROUNDS:

1. FACADE SIGN EXCEEDS MAXIMUM ALLOWABLE 2.5FT. X 10FT.

*Ernst Schmidt*

BUILDING INSPECTOR

\*\*\*\*\*

PERMITTED	PROPOSED OR AVAILABLE	VARIANCE REQUEST
ZONE C USE 48-18 H(b)[1]		
WALL SIGNS	2.5FT. X 10FT. <u>12FT. X 25FT.</u>	9.5FT. X 15FT.

APPLICANT IS TO PLEASE CONTACT THE ZONING BOARD SECRETARY AT  
914-563-4630 TO MAKE AN APPOINTMENT WITH THE ZONING BOARD OF  
APPEALS.

CC: Z.B.A., APPLICANT, B.P. FILE

PLEASE ALLOW FIVE TO TEN DAYS TO PROCESS

IMPORTANT  
YOU MUST CALL FOR ALL REQUIRED INSPECTIONS OF CONSTRUCTION

Other inspections will be made in most cases but those listed below must be made or Certificate of Occupancy may be withheld. Do not mistake an unscheduled inspection for one of those listed below. Unless an inspection report is left on the job indicating approval of one of these inspections it has not been approved and it is improper to continue beyond that point in the work. Any disapproved work must be reinspected after correction.

1. When excavating is complete and footing forms are in place (before pouring.)
2. Foundation inspection. Check here for waterproofing and footing drains.
3. Inspect gravel base under concrete floor and under slab plumbing.
4. When framing is completed and before it is covered from inside and plumbing rough-in.
5. Insulation.
6. Plumbing final and final. Have on hand electrical inspection data and final certified plot plan. Building is to be completed at this time. Well water test required and engineer's certification letter for septic system required.
7. Driveway inspection must meet approval of Town Highway Superintendent. A driveway bond may be required.
8. \$50.00 charge for any site that calls for the inspection notice.
9. Permit number must be called in with each inspection.
10. There will be no inspections unless yellow permit card is posted.
11. Sewer permit must be obtained along with building permit for new houses.
12. Septic permit must be submitted with engineer's drawing and per test.
13. Road opening permit must be obtained from Town Clerk's office.
14. All building permit will need a Certificate of Occupancy or a Certificate of Compliance and there is no fee for this.

Rt 17M PO Box 363 New Hampton 10958  
PLEASE PRINT CLEARLY

FILL OUT ALL INFORMATION WHICH APPLIES TO YOU

Owner of Premises Jack DeVitt

Address 73 Windsor Highway Rt. 32, Newburgh N.Y. 12550 Phone 565-7665

Mailing Address Same as above

Name of Architect: \_\_\_\_\_

Address \_\_\_\_\_

Phone \_\_\_\_\_

Name of Contractor MidPort outdoor Inc.

Address 12 Union St., Middletown N.Y.

Phone (914) 343-4319

State whether applicant is owner, lessee, agent, architect, engineer or builder lessee

If applicant is a corporation, signature of duly authorized officer.

[Signature]  
Name and title of corporate officer)

FOR OFFICE USE ONLY

Building Permit # \_\_\_\_\_

1. On what street is property located? On the N side of Windsor Hwy. (Rt. 32)  
and 2640 feet from the intersection of Union + Rt. 32 or Rt. 32 + industrial (Myl. Co.)
2. Zone or use district in which premises are situated \_\_\_\_\_ Is property a flood zone? Y \_\_\_\_\_ N \_\_\_\_\_
3. Tax Map Description: Section \_\_\_\_\_ Block \_\_\_\_\_ Lot \_\_\_\_\_
4. State existing use and occupancy of premises and intended use and occupancy of proposed construction.
  - a. Existing use and occupancy: Pool & Spa Retail
  - b. Intended use and occupancy: Same
5. Nature of work (check if applicable) New Bldg ☐ Addition ☐ Alteration ☐ Repair ☐ Removal ☐ Demolition ☐ Other ☒
6. Is this a corner lot? YES FACADE SIGN 12' x 25'
7. Dimensions of entire new construction. Front 25 FT Rear \_\_\_\_\_ Depth \_\_\_\_\_ Height 12 FT No. of stories \_\_\_\_\_
8. If dwelling, number of dwelling units: \_\_\_\_\_ Number of dwelling units on each floor \_\_\_\_\_
 

Number of bedrooms \_\_\_\_\_ Baths \_\_\_\_\_ Tubs \_\_\_\_\_  
 Heating Plant Gas \_\_\_\_\_ Oil \_\_\_\_\_ Electric/Hot Air \_\_\_\_\_ Hot Water \_\_\_\_\_  
 If Garage, number of cars \_\_\_\_\_
9. If business, commercial or mixed occupancy, specify nature and extent of each type of use \_\_\_\_\_
10. Estimated cost: \$1700 Fee \_\_\_\_\_  
(To be Paid on this Application)
11. School District: \_\_\_\_\_

Cost for the work described in the Application for Building Permit includes the cost of all the construction and other work done in connection therewith, exclusive of the cost of the land. If that cost shall exceed estimated cost, an additional fee may be required before the issuance of Certificate of Occupancy.

1 / 12

APPLICATION FOR BUILDING PERMIT  
TOWN OF NEW WINDSOR, ORANGE COUNTY, NEW YORK  
Pursuant to New York State Building Code and Town Ordinances

Building Inspector: Michael L. Babcock  
Asst. Inspectors: Frank Lisi, Ernst Schmidt  
New Windsor Town Hall  
555 Union Avenue  
New Windsor, New York 12553  
(914) 563-4412  
(914) 563-4693 FAX

Eldg Insp Examined \_\_\_\_\_  
Fire Insp Examined \_\_\_\_\_  
Approved \_\_\_\_\_  
Disapproved \_\_\_\_\_  
Permit No. \_\_\_\_\_

REFER TO:

Planning Board ☐ Highway Dept ☐ Sewer ☐ Water ☐ Zoning Board of Appeals ☐

INSTRUCTIONS

- A. This application must be completely filled in by typewriter or in ink and submitted in duplicate to the Building Inspector.
- B. Plot plan showing location of lot and buildings on premises, relationship to adjoining premises or public streets or areas, and giving a detailed description of layout of property must be drawn on the diagram which is part of this application.
- C. This application must be accompanied by two complete sets of plans showing proposed construction and two complete sets of specifications. Plans and specifications shall describe the nature of the work to be performed, the materials and equipment to be used and installed and details of structural, mechanical and plumbing installations.
- D. The work covered by this application may not be commenced before the issuance of a Building Permit.
- E. Upon approval of this application, the Building Inspector will issue a Building Permit to the applicant together with approved set of plans and specifications. Such permit and approved plans and specifications shall be kept on the premises, available for inspection throughout the progress of the work.
- F. No building shall be occupied or used in whole or in part for any purpose whatever until a Certificate of Occupancy shall have been granted by the Building Inspector.

APPLICATION IS HEREBY MADE to the Building Inspector for the issuance of a Building Permit pursuant to the New York Building Construction Code Ordinances of the Town of New Windsor for the construction of buildings, additions, or alterations, or for removal or demolition or use of property as herein described. The applicant agrees to comply with all applicable laws, ordinances, regulations and covenants that he is the owner or agent of all that certain lot, piece or parcel of land and/or building described in this application and if not the owner, that he has been duly and properly authorized to make this application and to assume responsibility for the owner in connection with this application.

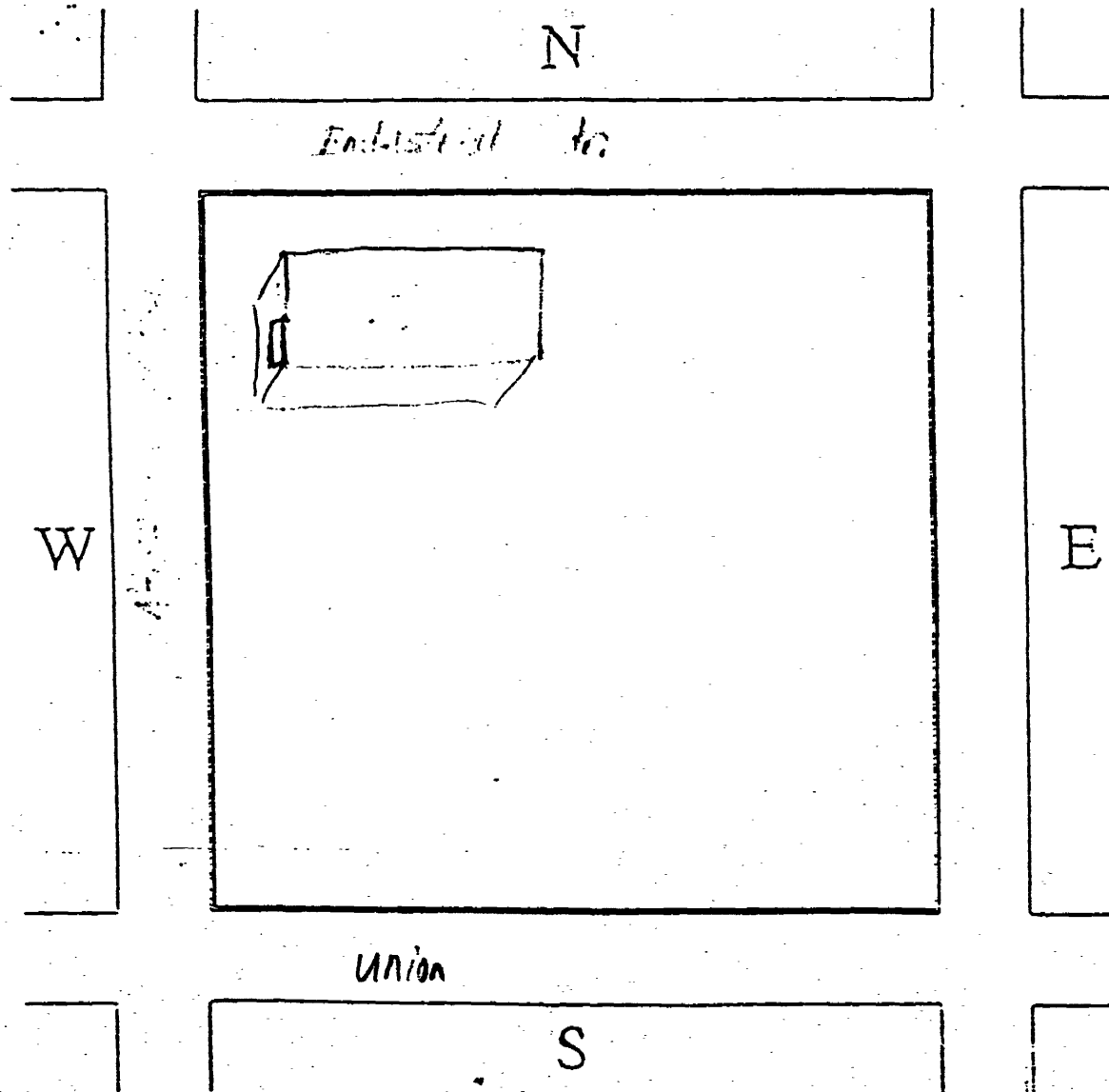
  
(Signature of Applicant)

73 Windsor Hwy, Newburgh N.Y. 12550  
(Address of Applicant)

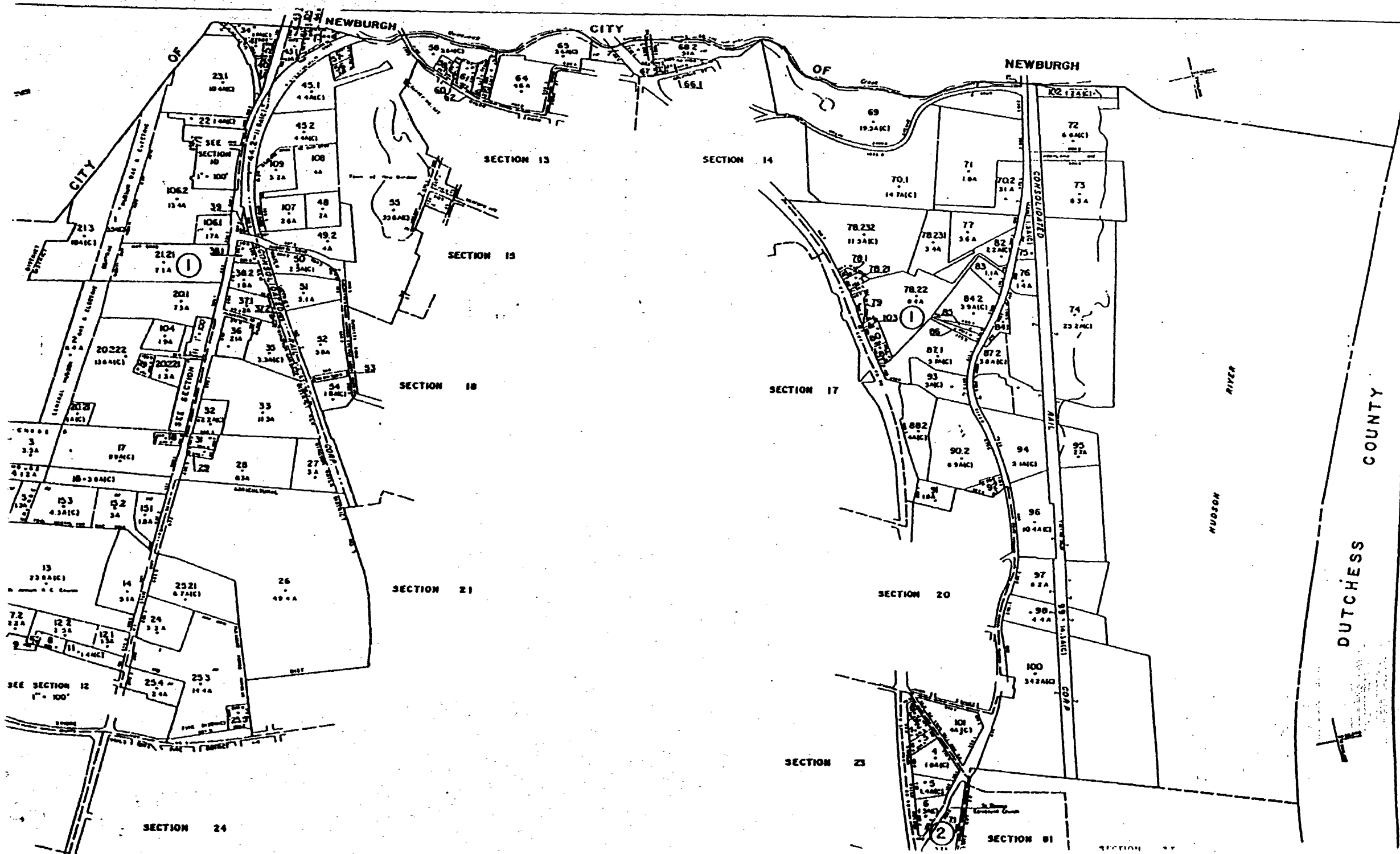
PLOT PLAN

NOTE:

Locate all buildings and indicate all set back dimensions. Applicants must indicate the building line or lines clearly and distinctly on the drawings.







10/28/96 Public Hearing - #96-26-Devitt/Royal Pools

Name:

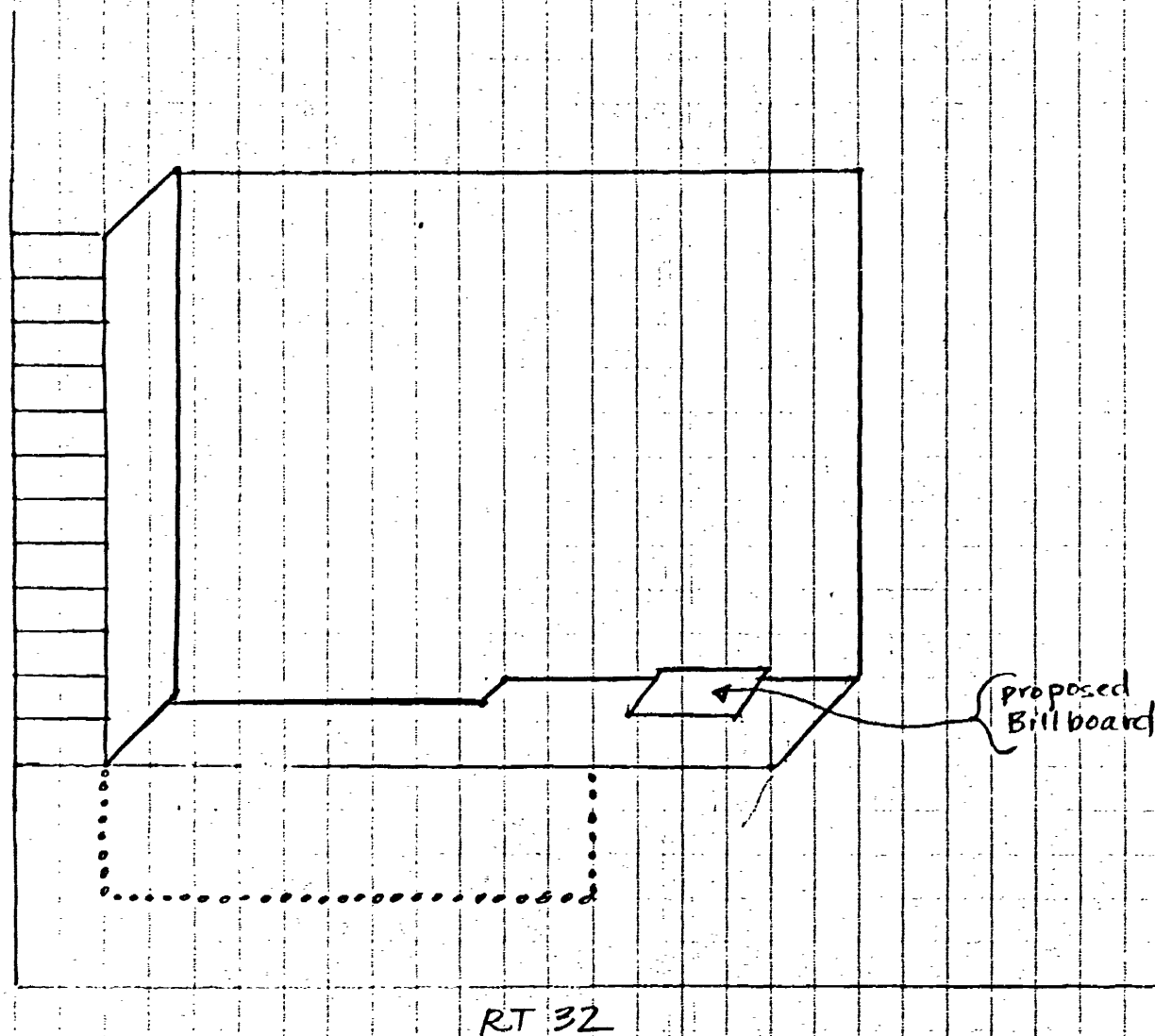
BEIN DE Ruy

Address:

4 MILLVICK RD. NEW PALM NY 12550

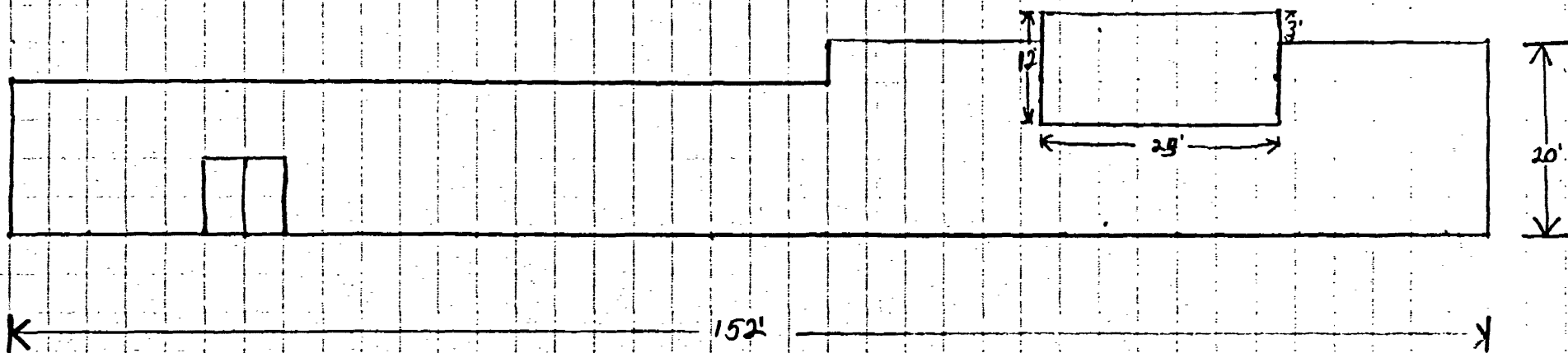
□ = 10'

Front View From Route 32



#96-26.

□ = 41



#96-26

ZONING BOARD OF APPEALS : TOWN OF NEW WINDSOR  
COUNTY OF ORANGE : STATE OF NEW YORK

-----X  
In the Matter of Application for Variance of

Royal Pools & Spas/Devitt

Applicant.

#96-26

AFFIDAVIT OF  
SERVICE  
BY MAIL

-----X  
STATE OF NEW YORK )  
                          ) SS.:  
COUNTY OF ORANGE )

PATRICIA A. BARNHART, being duly sworn, deposes and says:

That I am not a party to the action, am over 18 years of age and reside at 7 Franklin Avenue, New Windsor, N. Y. 12553.

On October 11, 1996, I compared the 18 addressed envelopes containing the attached Notice of Public Hearing with the certified list provided by the Assessor regarding the above application for variance and I find that the addressees are identical to the list received. I then mailed the envelopes in a U. S. Depository within the Town of New Windsor.

Patricia A. Barnhart  
Patricia A. Barnhart

Sworn to before me this  
day of Oct. 15, 1996.

Mary Ann Hotaling  
Notary Public

MARY ANN HOTALING  
Notary Public, State of New York  
No. 01HO5062877  
Qualified in Orange County  
Commission Expires July 8, 1998

(TA DOCDISK#7-030586.AOS)

Hammond, Karl, Bradley, Carol  
St. John, Jean, Roggendorf, Mary,  
Miller, Helen  
99 Windsor Highway  
New Windsor, N. Y. 12553

Occupations, Inc.  
Fortune Road West  
Middletown, N. Y. 10940

Dennison Monarch Systems, Inc.  
% Avery Dennison  
24305 Waterview Drive  
Worton, MD 21678

Clegg, John W. & Mark S.  
% Mark S. Clegg  
10 Chapel Circle  
Pine Bush, N. Y. 12566

Estate of Margaret S. &  
Norman W. Lee  
% Mildred Thiele  
8 Winthrop Road  
Bethel, CT 06801

Gutta, Charles H. & Barbara  
90 Windsor Highway  
New Windsor, N. Y. 12553

Devitt, John L.  
59 Windsor Highway  
New Windsor, N. Y. 12663

New Terminal Corp.  
% Myron P. Shevell  
1-71 North Avenue East  
Elizabeth, N. J. 07201

Baker, Jeffrey S. & Christine  
221 Hudson Street  
Cornwall-on-Hudson, N.Y. 12520

Torry, Fulton B.  
76 Windsor Highway  
New Windsor, N. Y. 12553

Whipple, Stuart K. & Ann H.  
240 Montgomery Street  
Newburgh, N. Y. 12550

Cranganu, Irene  
92 Windsor Highway  
New Windsor, N. Y. 12553

Adams, Veronica I., Robert J.,  
Richard H. & Carol Sue and  
Rorica Corp.  
12 Tyre Avenue  
Seneca Falls, N. Y. 13148

Yonkers Contracting Co., Inc.  
969 Midland Avenue  
Yonkers, N. Y. 10701

Van Leeuwen, Henry P. & Louis G.  
Route 32 Corp.  
70 Windsor Highway  
New Windsor, N. Y. 12553

Mustafa, Mahmet & Ceylan  
78 Windsor Highway  
New Windsor, N. Y. 12553

Gableman, Andrew R. & Gertrude  
88 Windsor Highway  
New Windsor, N. Y. 12553

Dyseven, Anthony & Elizabeth K.  
94 Windsor Highway  
New Windsor, N. Y. 12553

Date 5/24/96, 19.....

# TOWN OF NEW WINDSOR

TOWN HALL, 555 UNION AVENUE  
NEW WINDSOR, NEW YORK 12553

TO Frances Roth 147 Sycamore Dr DR.  
New Windsor Ny 12553

DATE			CLAIMED	ALLOWED
5/13/96		Zoning Board Mtg	75.00	
		Misc - 2		
		Cuttica - 4		
		Paz - 7		
		<del>Paz</del> - 5 22.50		
		Monaco - 16		
		Lombardi - 4		
		Burns - 3	184.50	
		<u>41</u>	259.50	

~~REDACTED~~  
MR. NUGENT: Request for 9.5 ft. x 15 ft. facade sign for Royal Pools and Spas located at 73 Windsor Highway in a C zone.

Mr. Matt Boyle appeared before the board for this proposal.

MR. BOYLE: Actually, it's 12 x 25 sign.

MR. NUGENT: You're allowed 2.5 x 10.

MS. BARNHART: That is the variance you're asking for.

MR. BOYLE: Yeah, right, here's the denial. This is, I don't know, I'm sure you are familiar with the building, it kind of goes like this, here's where the roadway is, the road is very high coming down, I'm going into our third season in the building. The biggest complaint is the lack of visibility, they can't find me.

MR. NUGENT: Especially coming northbound.

MR. BOYLE: We're hoping to put the sign up here extending 30 to 36 inches, just above the roof line, 30 to 36.

MR. NUGENT: Give you more visibility coming down the hill.

MR. BOYLE: Yeah, both ways. We looked at all positions on the building, anywhere around it just seems with this help from the sign company that this was the best spot for the visibility factor. So we have one sign out in the road and everybody is missing it.

MR. TORLEY: You already have one sign out, you're going to take that one down?

MR. BOYLE: We have a small sign down on the road.

MR. TORLEY: You're going to take that out?



MR. BOYLE: Yeah, I want the cake and I want to eat it too. We're doing very well but I believe we can do a lot better. And this is our, hopefully, our first step in getting there.

MR. TORLEY: 12 x 25 foot sign is a huge sign.

NS. BARNHART: How big is the building?

MR. BOYLE: Building is about 300 feet long from when you're driving down the street about 300 feet of building, I mean it's a big sign. But if you put it where I'm going to put it, it won't look quite as big because it's basically going on the side of the building. The only thing that is going to be obtrusive whatsoever, other than the structure of the building will be the 30 inches above the building.

MR. TORLEY: You want a sign taller than this room and pretty close to three quarters the width of this room?

MR. BOYLE: Right, I do.

MR. TORLEY: The code would permit you a sign that is 26 1/2 by 10.

MR. NUGENT: Which is 25 square feet.

MR. TORLEY: I think this would have to be what you call not a minor.

MR. NUGENT: This is 300 square feet.

MR. TORLEY: How big is the other sign?

MR. BOYLE: The other sign is 3 1/2 x 7'6".

MR. LANGANKE: Are you estimating these or do you know these dimensions?

MR. BOYLE: The sign that he just asked me I'm estimating.

MR. LANGANKE: How about the length of the building,

are you estimating that also?

MR. BOYLE: I am but I'm not, I mean I know it's right around there, give or take maybe 10 or 15 feet.

MR. LANGANKE: I'd be interested in knowing specifically, you know, the size of the sign and the size of the--

MR. KANE: With the size of the building that puts the size of the sign into proportion, that is what we're looking for.

MR. REIS: Do you have any kind of a rendering on this?

MR. BOYLE: Well, what I have basically is what they sent me today, I don't have an artist's rendering, just a sketch of this right here, Industrial Drive comes down here, this is Route 32 which is up here now the road, it is about almost at the same height as the top of this building right here.

MR. REIS: Sketch is proportionate?

MR. BOYLE: It's somewhat proportionate.

MR. TORLEY: I confess to having some questions that would have to be addressed thoroughly at the public hearing, but I would at this point move we set the gentleman up for the public hearing.

MR. NUGENT: Well, I think if you have some major objections that you should bring them to light right now.

MR. TORLEY: 12 x 25 foot sign is way over the permitted zoning.

MR. BOYLE: Well, at least allow me the chance for a artist's rendering and you'll have a lot better perspective.

MR. KANE: Cause as we know a sign that is 2 1/2 x 10 can get lost on a building, depending on the size of the building, he doesn't have those facts.

MR. TORLEY: As Jim pointed out, I owe it to him just to see the application.

MR. BOYLE: What was taken down was Jack Devitt's rendering which extended 12 to 15 feet above the building and back down and it was the full length of the building before he moved out. So it's not something that wasn't there before and I realize that doesn't make a heck off lot of difference.

MR. TORLEY: Be prepared to make the case cause you're asking for a big variance.

MR. BOYLE: Certainly.

MR. KRIEGER: I should think also particularly in this case, the board would want pictures and I should think pictures of the approach from both directions, not just the property but the approaches.

MR. NUGENT: Did you hear that? The board would like you to bring us pictures of the building from both directions on the highway.

MR. BOYLE: Sure.

MR. KRIEGER: Building is standard but also I should think they would want to see both approaches how it looks.

MR. KANE: Stand on 32 one way and snap a picture the other way, give us all the ammunition you have.

MR. BOYLE: No problem.

MR. NUGENT: And a copy of the lease.

MR. TORLEY: I would feel better about a larger freestanding sign maybe little bit oversized than 12 x 25 foot.

MS. BARNHART: That would be an obstruction to traffic.

MR. TORLEY: I'd have to see the photos.

MR. KANE: Do you accept a motion?

MR. NUGENT: Yes.

MR. LANGANKE: I have another comment for the applicant. See what some of the other businesses adjacent to Royal Pools what kind of signs they have in relation to what you're asking, perhaps it will make your case.

MR. BOYLE: Okay.

MR. LANGANKE: Anything you can do, that is all.

MR. NUGENT: Accept a motion.

MR. KANE: I move we set up Mr. Boyle for, Mr. Devitt for their proposed variance for a public hearing.

MR. TORLEY: Second it.

ROLL CALL

MR. KANE	AYE
MR. LANGANKE	AYE
MR. REIS	AYE
MR. TORLEY	AYE
MR. NUGENT	AYE

MR. KRIEGER: Do we have a proxy?

MS. BARNHART: We don't have one, no.

MR. KRIEGER: Well, I think we should by the public hearing since Mr. Devitt is the owner.

MR. KRIEGER: These are the criteria that the state has determined the zoning board must address, if you would address yourself to the those criteria when you make your presentation, it would be helpful to the board.

MR. BOYLE: Thanks for your time.